

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

Wastewater Discharge Authorization Program

SEAN PARNELL, GOVERNOR

555 Cordova Street
Anchorage, AK 99501-2617
Phone: (907) 269-7564

Fax: (907) 334-2415

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<http://www.state.ak.us/dec/>

March 10, 2011

Certified Mail 7008-1830-0003-5208-0652

Mr. Martin B. Moore, Sr.
City of Emmonak
P.O. Box 9
Emmonak, AK 99581

Subject: Kwiguk Pass Emmonak Road
Reference No. POA-2008-1229
State ID No. AK 1012-02AA

Dear Mr. Moore:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation is issuing the enclosed Certificate of Reasonable Assurance for the construction of a landfill and road in Emmonak.

Department of Environmental Conservation (DEC) regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 - 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit <http://www.dec.state.ak.us/commish/ReviewGuidance.htm> for information on Administrative Appeals of Department decisions. An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers and Division of Coastal and Oceans Management of our actions and enclosing a copy of the certification for their use.

Sincerely,



Sharon Morgan, Manager
Wastewater Discharge Authorization Program

Enclosure

cc: (with encl.)

Jack Hewitt, USACE, Anchorage
Tracy DeGering, EPA, AK Operations
Margie Goatley, DNR/DCOM, Anchorage

Sean Palmer, DEC Anchorage
Mike Daigneault, ADF&G/Habitat, Anch.
Ann Rappoport, USF&WS, Anchorage
Susan Luetters, Bristol Environ. Anch.

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

A Certificate of Reasonable Assurance, in accordance with Section 401 of the Federal Clean Water Act and the Alaska Water Quality Standards, is issued to the City of Emmonak, PO Box 9, Emmonak, Alaska 99581, to construct a new Class III landfill facility and access road west of Emmonak. The 2.5 acre landfill facility would require approximately 20,000 cubic yards (cy) of fill material to construct the cell and monofill pad, and an additional 1,700 cy of material for a six-inch surface course layer. The landfill access road would have a width of 60 feet, from toe-to-toe, and a 20 feet wide driving surface. The road bed would require 45,600 cy of fill material, with an additional 4,800 cy of gravel for the driving surface. Four hundred cy of Class I riprap will be placed to protect the structure at the slough crossing. The entire access road would be constructed in wetlands and result in 7.8 acres of permanent wetland impacts, with an additional 5 acres of temporary wetlands impacts. Material will come from an existing stockpile. Additional material may be obtained from a permitted borrow site. Material will be transported by either truck over an ice road or by barge.

The proposed activity is located within Section 12, 13, 17, 18 & 20, T. 31 N., R. 81 & 82 W., Seward Meridian near Emmonak, Alaska.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit, reference number POA-2008-1229, and a discharge may result from the proposed activity.

DEC reviewed the application and certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70, provided that the following alternative measures are adhered to.

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). Most importantly, the

applicant must contact by telephone the DEC Area Response Team for Northern Alaska at (907) 451-2121 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802. Report all spills.

3. This project shall apply for coverage under DEC's APDES General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR10-0000). This permit requires that a Storm Water Pollution Prevention Plan (SWPPP) describing construction runoff and erosion control be prepared and implemented. For projects that disturb greater than five acres, the SWPPP must also be submitted to DEC (Greg Drzewiecki 907-269-7692) prior to construction. Please refer to DEC's website for information concerning the APDES storm water permit.
4. Construction equipment shall not be operated below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Operation of tracked or wheeled equipment in the water shall be kept to a minimum. Equipment shall be inspected on a daily basis for leaks. If leaks are found, the equipment shall not be used and shall be pulled from service until the leaks are repaired.
5. Any disturbed ground and exposed soil not covered with fill must be stabilized and revegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation so that a durable vegetative cover is established in a timely manner.
6. All work areas, material access routes within the project footprint as described in the Corps Public Notice POA-2008-1229, and surrounding wetlands involved with the road construction shall be clearly delineated and marked in such a way that equipment operators do not operate outside of this corridor.
7. Culvert installation techniques, such as stream diversion, dam and pump, or stream fluming, shall be incorporated into the installation activity to ensure that silt laden water is not carried into sensitive fish habitat. If the stream is intermittent, culvert installation shall occur when the stream bed is dry.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under the U.S. Army Corps of Engineers permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date March 10, 2011

Sharon Morgan

Sharon Morgan, Manager
Wastewater Discharge Authorization Program



US Army Corps
of Engineers
Alaska District

Regulatory Division (1145)
CEPOA-RD
Post Office Box 6898
Elmendorf AFB, Alaska 99506-0898

Public Notice of Application for Permit

PUBLIC NOTICE DATE: November 16, 2010

EXPIRATION DATE: December 15, 2010

REFERENCE NUMBER: POA-2008-1229

WATERWAY: Kwiguk Pass

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Jack Hewitt at (907) 753-2708, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at jack.j.hewitt@usace.army.mil if further information is desired concerning this notice.

CO-APPLICANT: City of Emmonak, Post Office Box 9, Emmonak, Alaska 99581.

CO-APPLICANT: Alaska Department of Transportation and Public Facilities (ADOT/PF), 2301 Peger Road, Fairbanks, Alaska 99709.

AGENT: Bristol Environmental & Engineering Services Corporation, 111 W. 16th Avenue, Third Floor, Anchorage, Alaska 99501-5109.

LOCATION: The project site is located within Sections 12, 13, 17, 18, & 20, T. 31 N., R. 81 & 82 W., Seward Meridian, USGS Quad Map Kwiguk D-6, Latitude 62.7803° N., Longitude 164.5571° W., in Emmonak, Alaska.

SPECIAL AREA DESIGNATION: The project proposal is located within the Yukon Delta National Wildlife Refuge.

PURPOSE: The applicant's stated purpose is to address problems associated with the existing landfill facility in Emmonak. The landfill is not permitted, nor is it in compliance with Alaska Department of Environmental Conservation (ADEC) regulations. The facility is adjacent to the Yukon River, upstream of the community drinking water intake structure, and in an area subject to seasonal flooding and an eroding shoreline. The landfill is also located within 5,000 feet of the Emmonak airport runway.

PROPOSED WORK: Construct a new Class III landfill facility and access road west of Emmonak. The 2.5 acre landfill facility would require approximately 20,000 cubic yards (CY) of fill material to construct the cell and monofill pad, and an additional 1,700 cy of material for the 6-inch surface course layer.

The facility has been designed for a 20 year lifespan and a 22,000 cy capacity. The entire 2.5 acre facility would be sited in wetlands. The City of Emmonak is the co-applicant for the landfill facility.

The landfill access road would extend Yukon Way approximately 1 mile to the west. The road extension would have a width of 60 feet, from toe-to-toe, and a 20 feet wide driving surface. The road bed would require 45,600 cy of fill material, with an additional 4,800 cy of gravel as driving surface material, and 400 cy of Class I riprap to protect the structure at the slough crossing. The entire access road would be constructed in wetlands and result in 7.8 acres of permanent wetland impacts, with an additional 5 acres of temporary wetland impacts. ADOT/PF is the co-applicant for the access road.

The City of Emmonak has stockpiled approximately 23,000 cy of suitable material for the construction project. Additional material may be harvested from a permitted borrow site at Kwiguk Pass, adjacent to the Yukon River, southeast of Emmonak. This material would be trucked across the river on an ice road if winter conditions are favorable. If ice is not sufficiently thick, a barge landing would be constructed so that the material could be loaded onto a barge for transport to Emmonak. The barge landing would be constructed above the ordinary high water line of the Yukon River and would impact an additional 0.1 acre wetland. The rip rap for the access road would be barged to Emmonak from an outside source.

All work would be performed in accordance with the enclosed plan, 11 sheets, dated October 2010.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material.

a. Avoidance: The proposed landfill facility was designed to be the most efficient size practicable for the City of Emmonak. The proposed road has been designed to be the shortest distance possible, and the narrowest width practicable, to allow safe access the new landfill facility.

b. Minimization: To limit wetland impacts during construction, staging areas and material storage sites would be limited to developed areas within the City of Emmonak and the 2.5 acres landfill footprint. The perimeter of the landfill facility would have a berm of sufficient height to prevent seasonal floodwaters from entering the waste disposal area. The slope of the berm was increased from 3:1 side slopes to 1:1 side slopes to reduce wetland impacts from 3.5 acres to 2.5 acres. The access road would incorporate eleven culverts along the corridor to maintain the hydrologic regime in the wetland complex. Construction of the access road across the slough channel would be accomplished through either wet or dry construction techniques, dependant on contractor and ADOT preference, and local seasonal conditions at time of construction. Silt fencing would be installed along the entire length of the access road route.

c. Compensatory Mitigation: As compensation for unavoidable impacts to waters of the U.S., the City of Emmonak and ADOT/PF propose an in-lieu fee to the Conservation Fund at a ratio of 1.5:1.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Division of Coastal and Ocean Management, Department of Natural Resources has concurred with the applicant's certification.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: The project area is within the known or historic range of the spectacled eider (*Somateria fischeri*). Preliminarily, we have determined the described activity will not affect threatened or endangered species, or modify their designated critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Preliminarily, we have determined the described activity would not adversely affect EFH in the project area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States - Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

Project drawings, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF COASTAL AND OCEAN MANAGEMENT

DIVISION OF COASTAL AND OCEAN MANAGEMENT
550 WEST 7TH AVENUE, SUITE 705
ANCHORAGE, ALASKA 99501-3559
PHONE: (907) 269-7470/FAX: (907) 269-3981

NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Division of Coastal and Ocean Management for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. **POA-2008-1229, Kwiguk Pass**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Division of Coastal and Ocean Management (DCOM). For information about this consistency review, contact DCOM at the address or phone number above, or visit the ACMP web site at <http://www.alaskacoast.state.ak.us//Projects/projects.html>.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-7564/FAX: (907) 334-2415

NOTICE OF APPLICATION
FOR
STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **POA-2008-1229, Kwiguk Pass**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project, with respect to Water Quality Certification, may submit written comments to the address above by the expiration date of the Corps of Engineer's Public Notice.



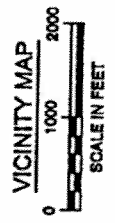
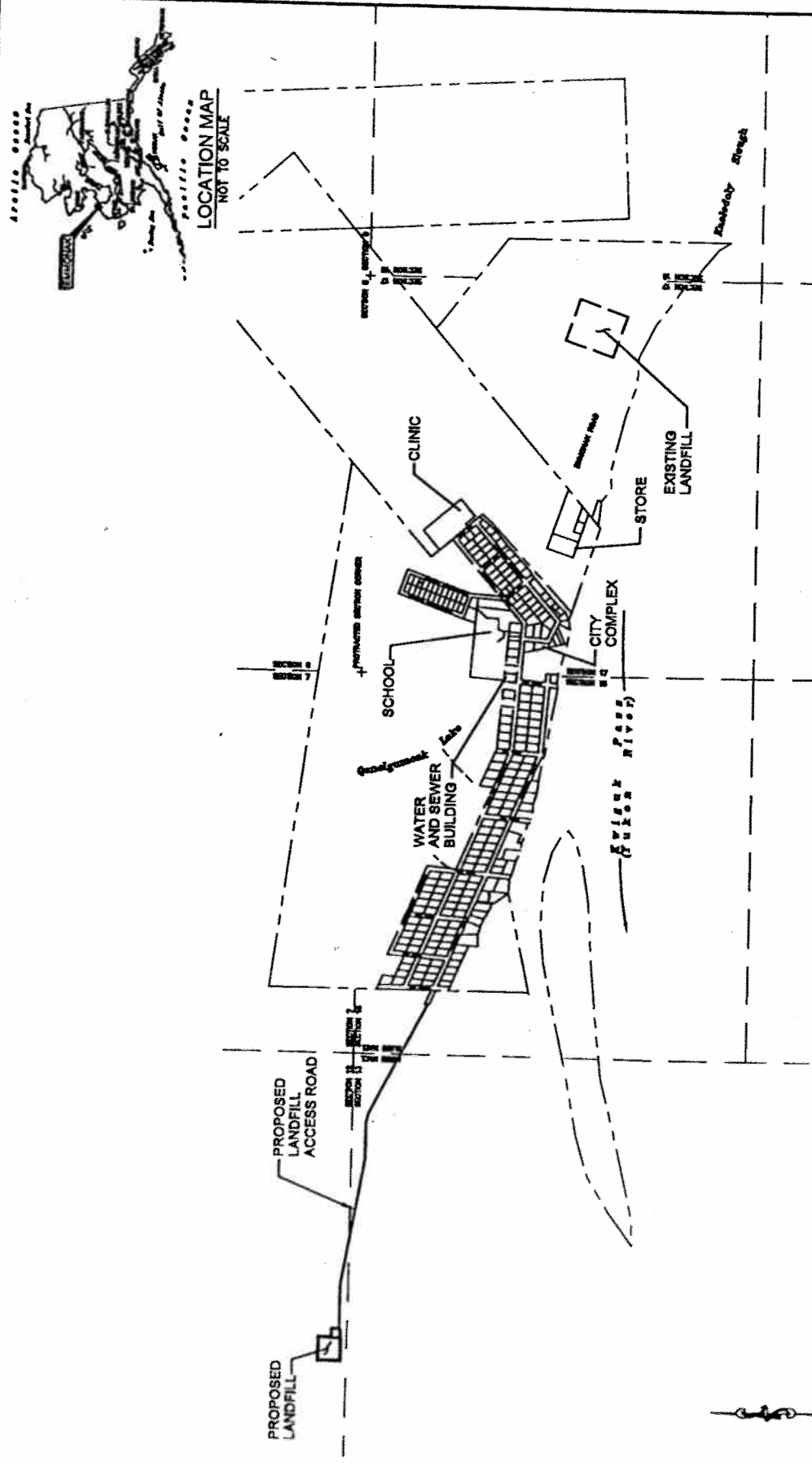
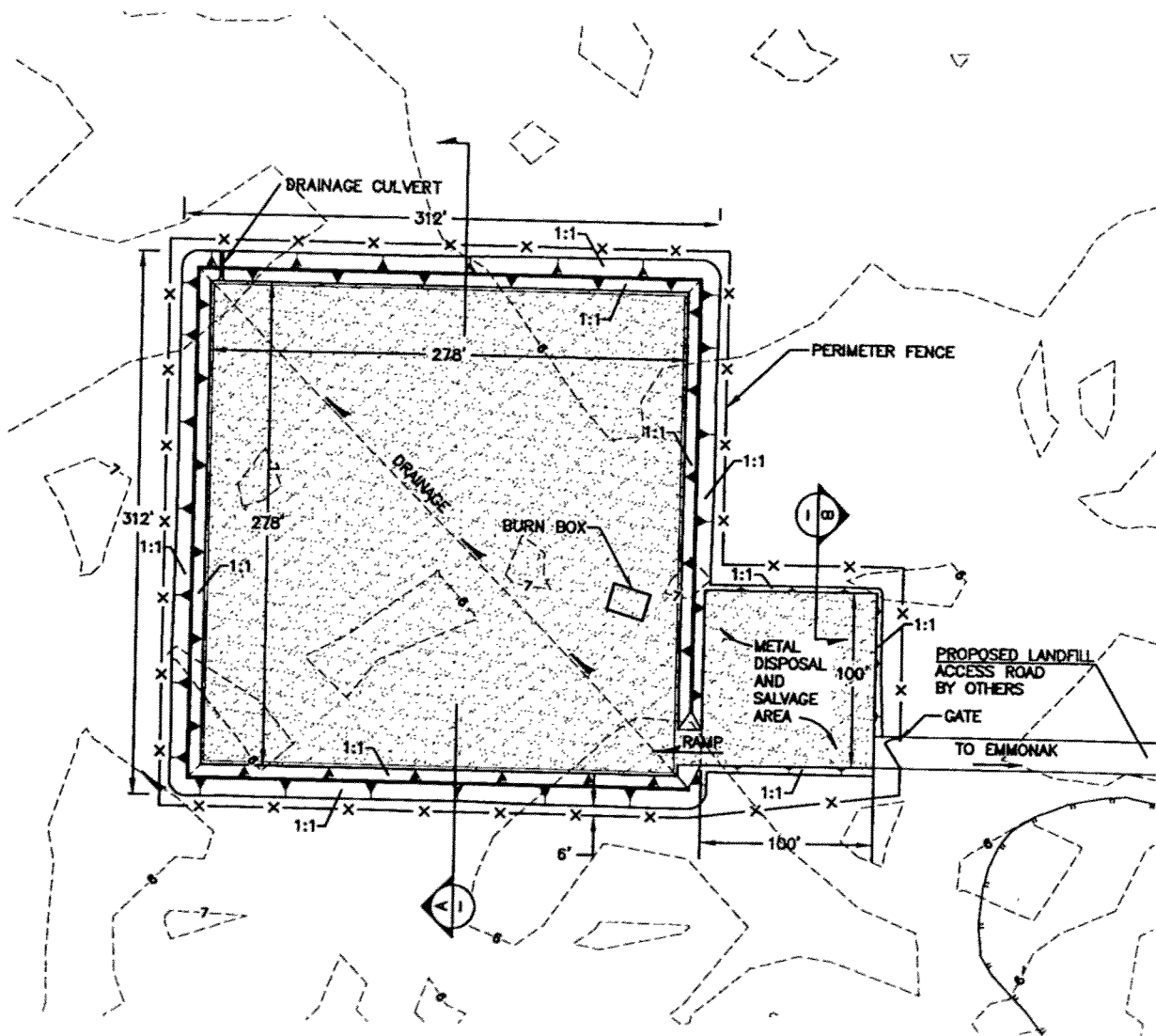


FIGURE 1
SOLID WASTE LANDFILL DESIGN
EMMONAK, ALASKA
PROJECT VICINITY MAP

SECTIONS 12 & 13
TOWNSHIP 31 N, RANGE 82 W
SEWARD MERIDIAN



PROPOSED LANDFILL PLAN

SCALE: SHOWN

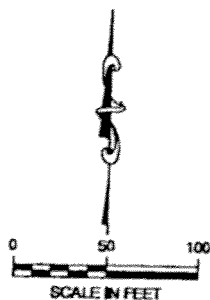


FIGURE 2
SOLID WASTE LANDFILL DESIGN
EMMONDAK, ALASKA
PROPOSED LANDFILL PLAN

SECTIONS 12
TOWNSHIP 31 N, RANGE 82 W
SEWARD MERIDIAN

POA-2008-1229, Kwiguk Pass
Sheet 4 of 11, Dated: October 2010

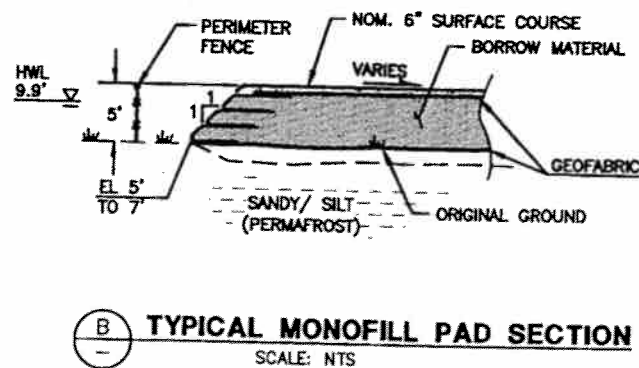
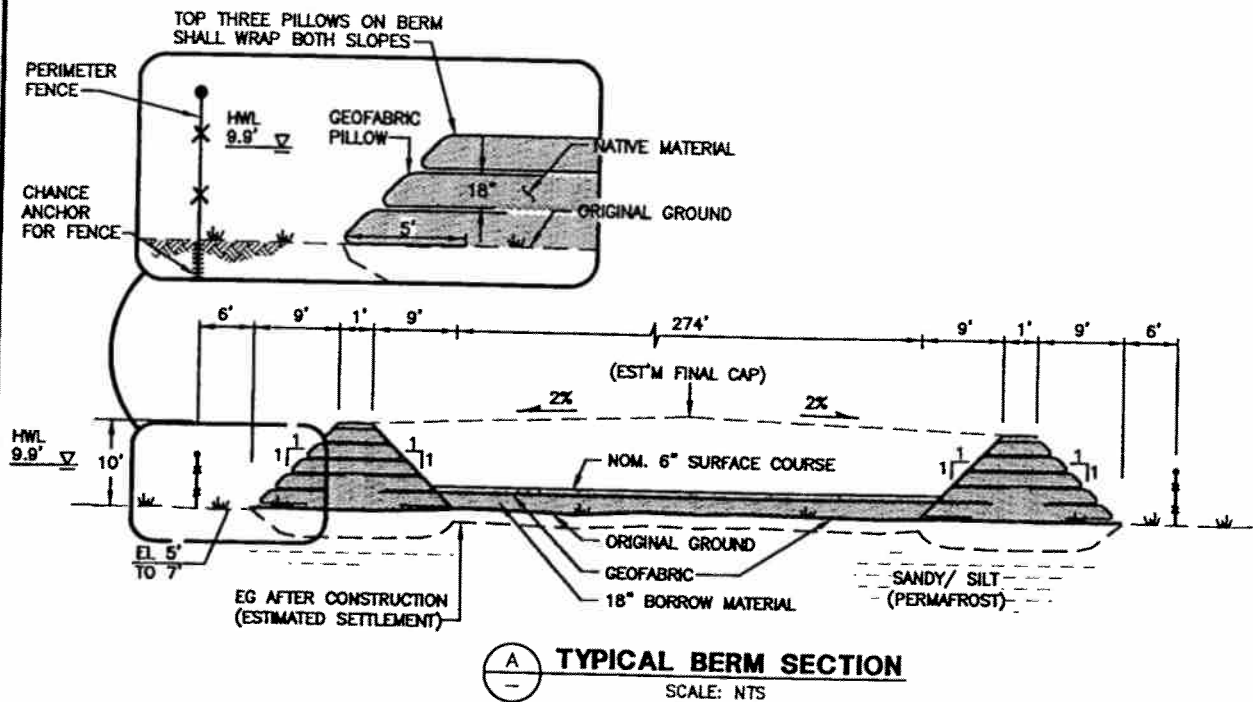


FIGURE 3
SOLID WASTE LANDFILL DESIGN
EMMONDAK, ALASKA
TYPICAL SECTIONS

SECTIONS 12
TOWNSHIP 31 N, RANGE 82 W
SEWARD MERIDIAN

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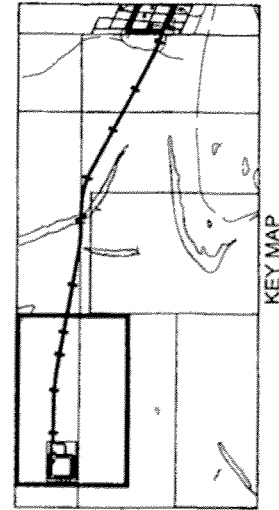
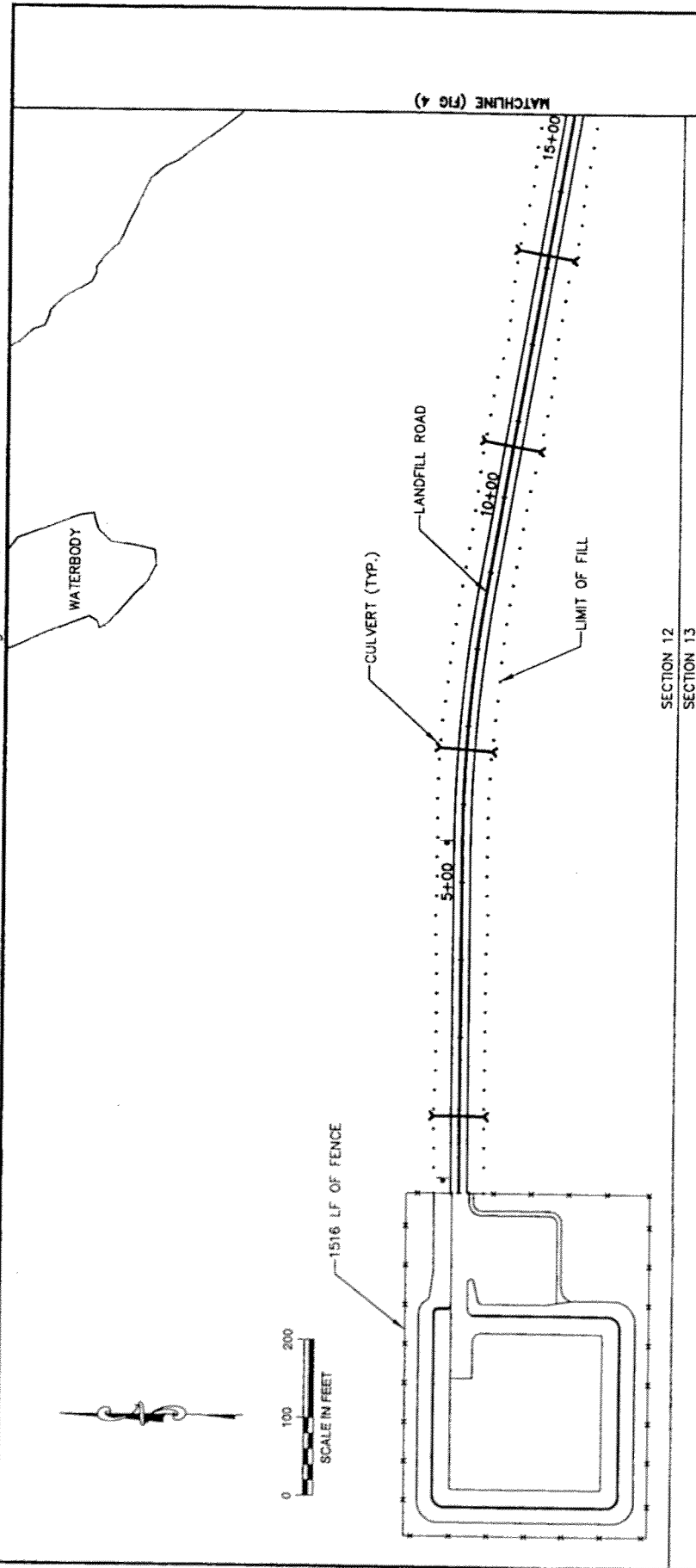


FIGURE 3
 EMMONAK ROAD PROJECT
 LANDFILL ROAD PLAN VIEW

SECTIONS 12 & 13, TOWNSHIP 31 N, RANGE 82 W
 SECTIONS 17 & 18, TOWNSHIP 31 N, RANGE 81 W
 SEWARD MERIDIAN

POA-2008-1229, Kwiguk Pass
 Sheet 6 of 11, Dated: October 2010

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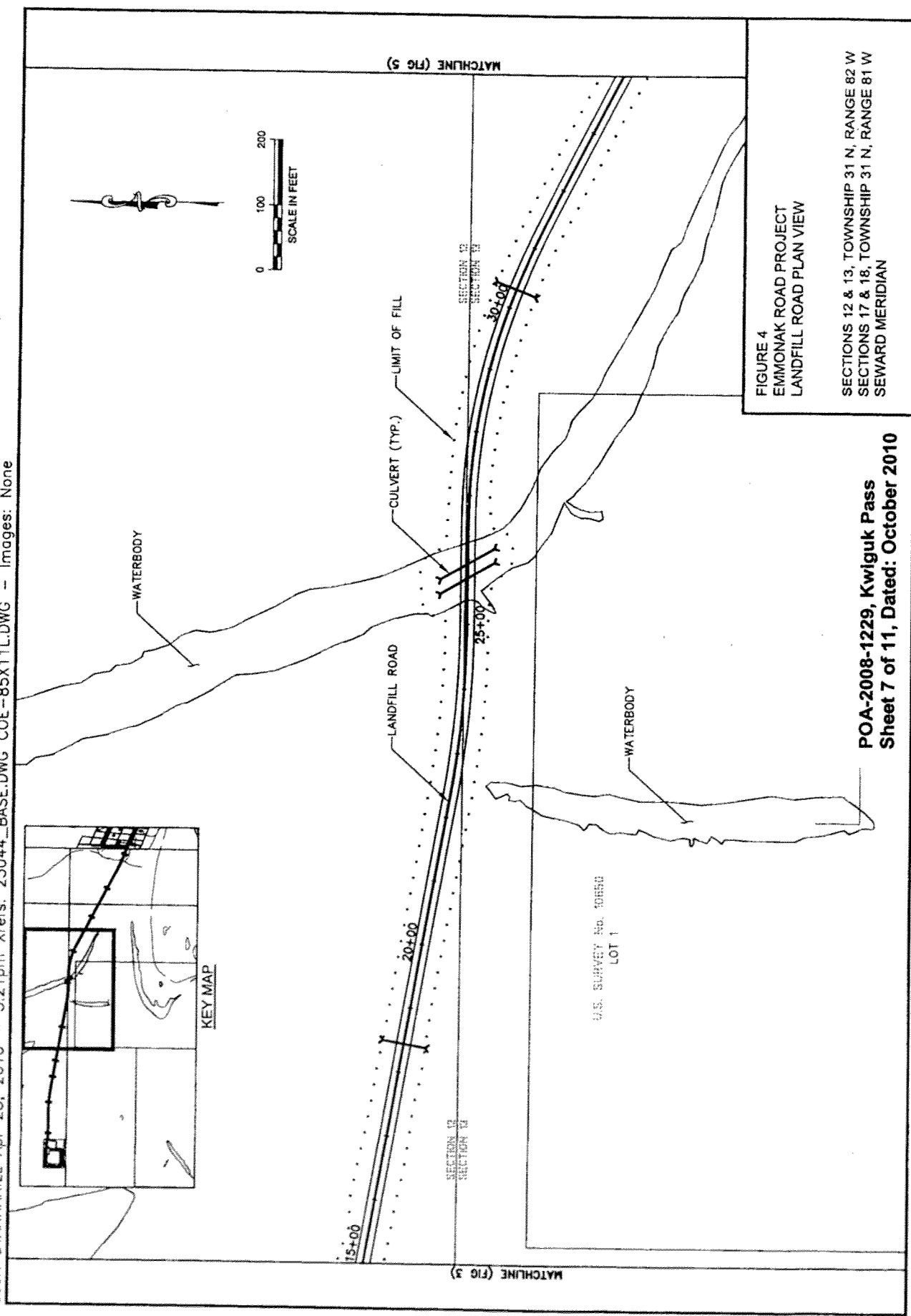
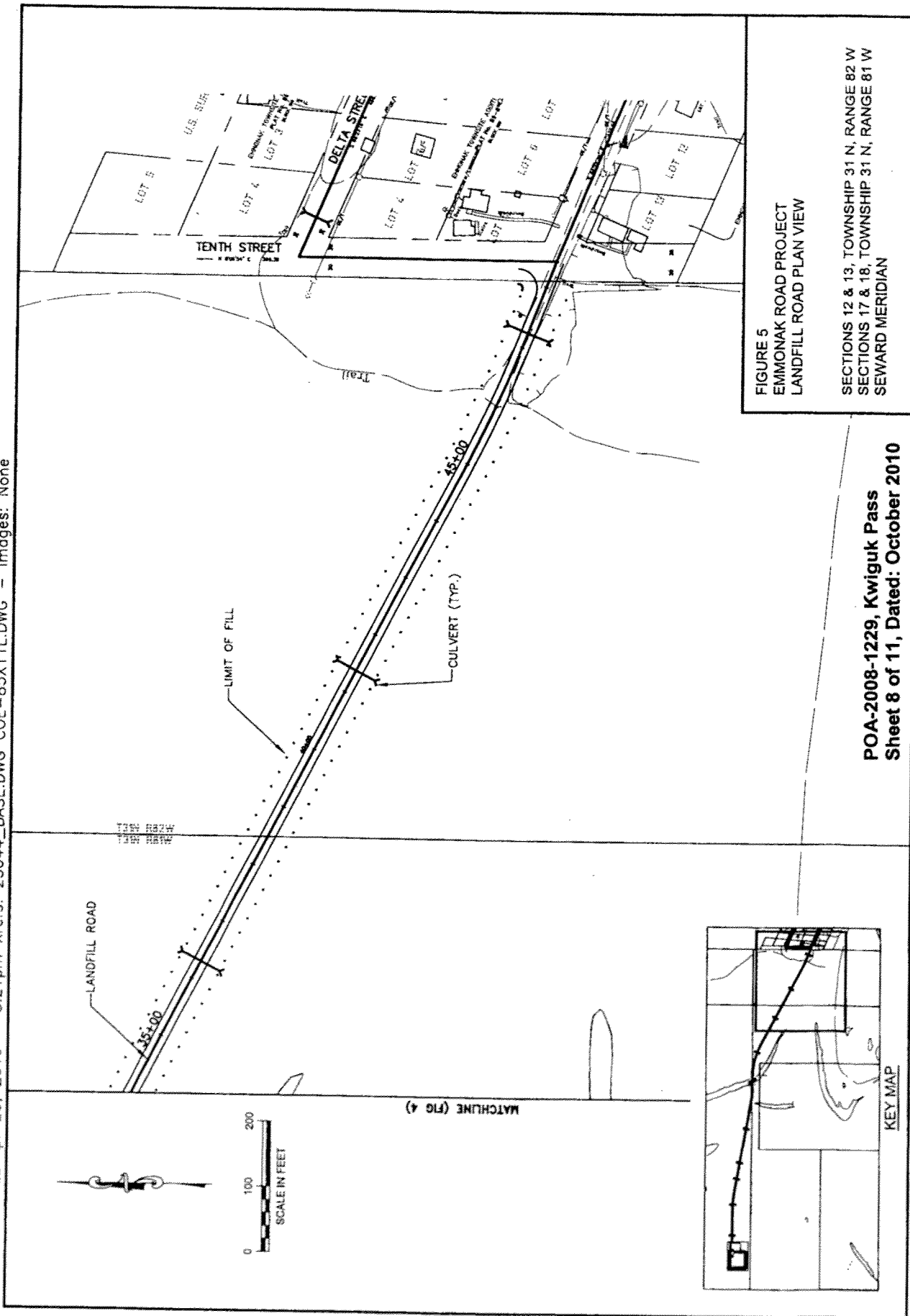


FIGURE 4
 EMMONAK ROAD PROJECT
 LANDFILL ROAD PLAN VIEW

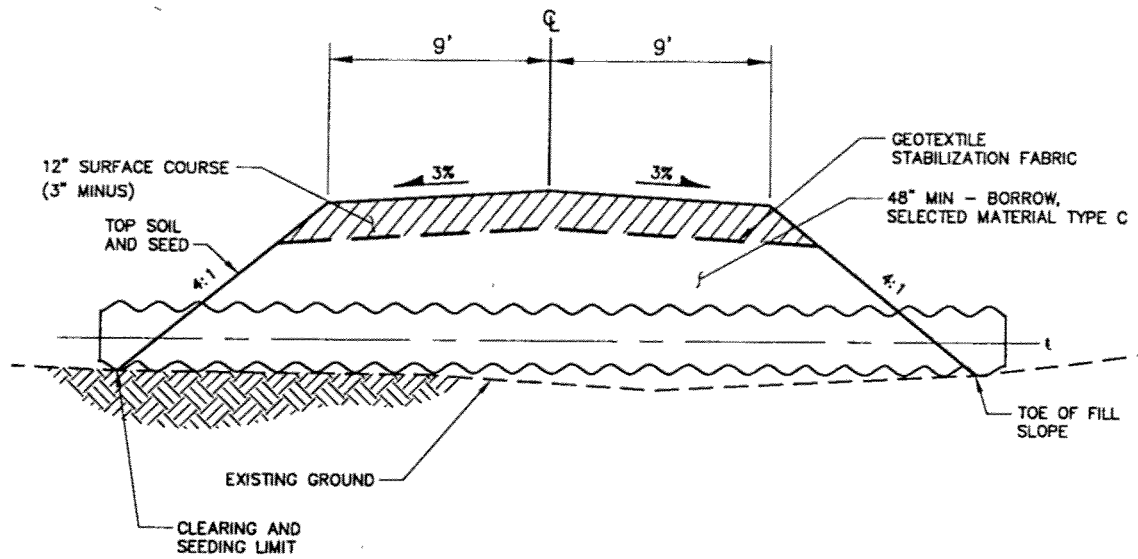
SECTIONS 12 & 13, TOWNSHIP 31 N, RANGE 82 W
 SECTIONS 17 & 18, TOWNSHIP 31 N, RANGE 81 W
 SEWARD MERIDIAN

POA-2008-1229, Kwlguk Pass
 Sheet 7 of 11, Dated: October 2010

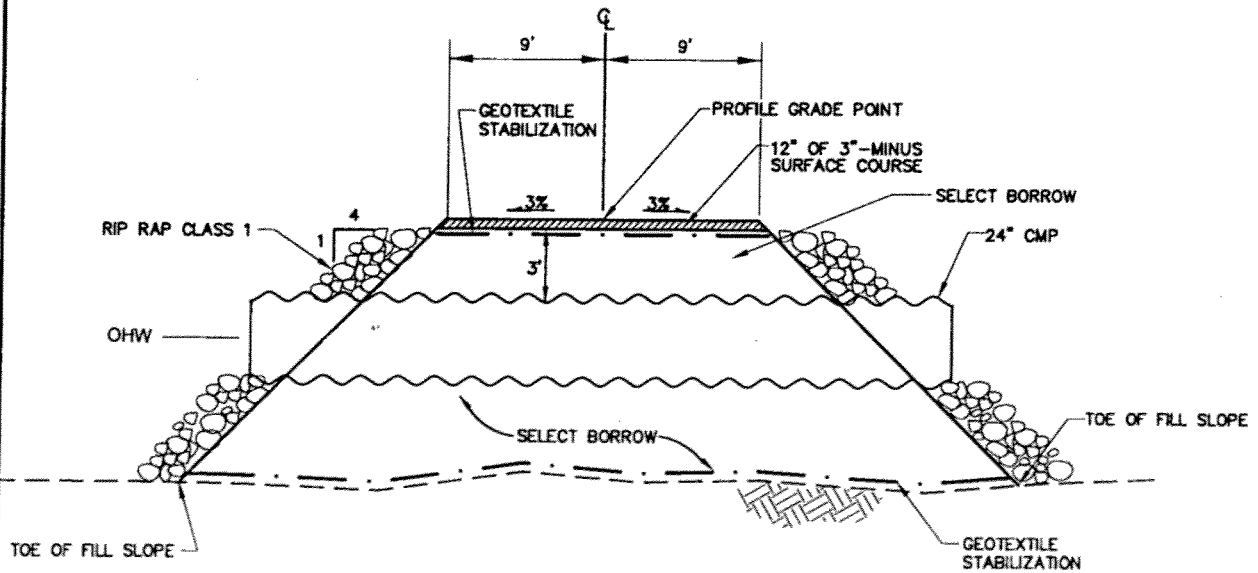
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POA-2008-1229, Kwiguk Pass
 Sheet 8 of 11, Dated: October 2010



A LANDFILL ROAD/CULVERT TYPICAL SECTION
SCALE: NTS



B LANDFILL ROAD CULVERT WATER CROSSING TYPICAL SECTION
SCALE: NTS

FIGURE 6
EMMONAK ROAD PROJECT
TYPICAL ROAD SECTIONS

SECTIONS 12 & 13, TOWNSHIP 31 N, RANGE 82 W
SECTIONS 17 & 18, TOWNSHIP 31 N, RANGE 81 W
SEWARD MERIDIAN

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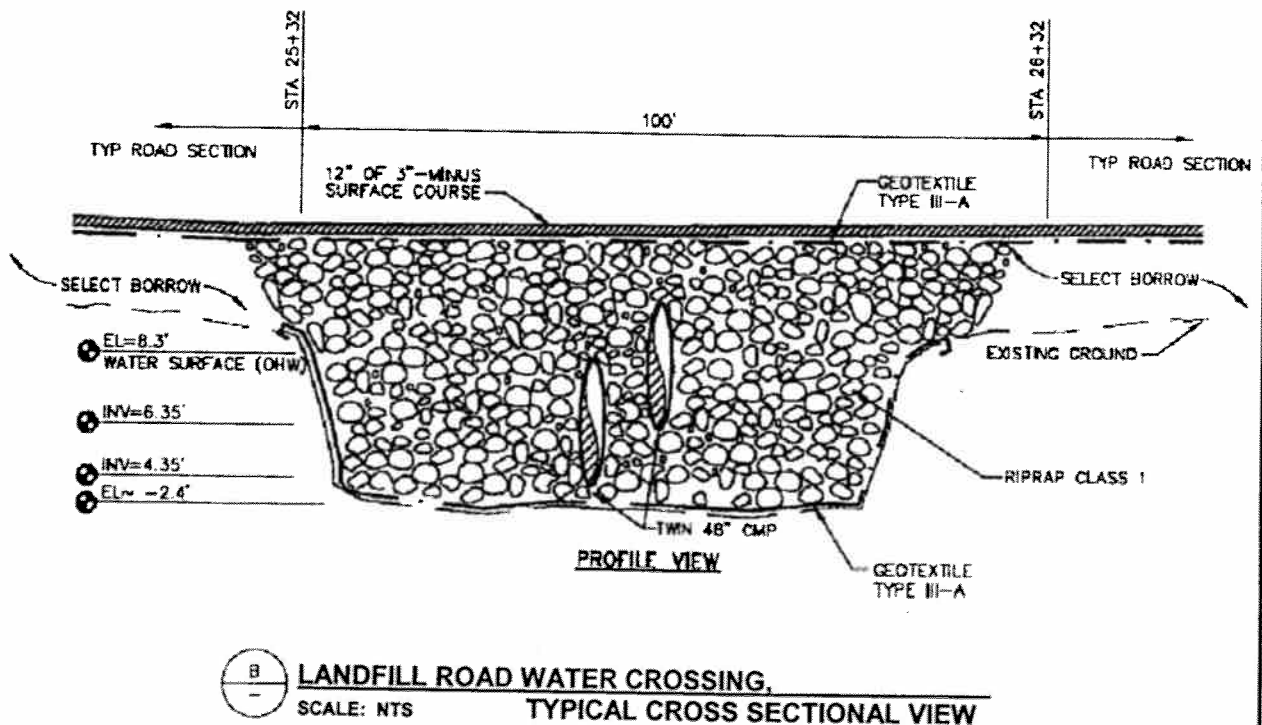
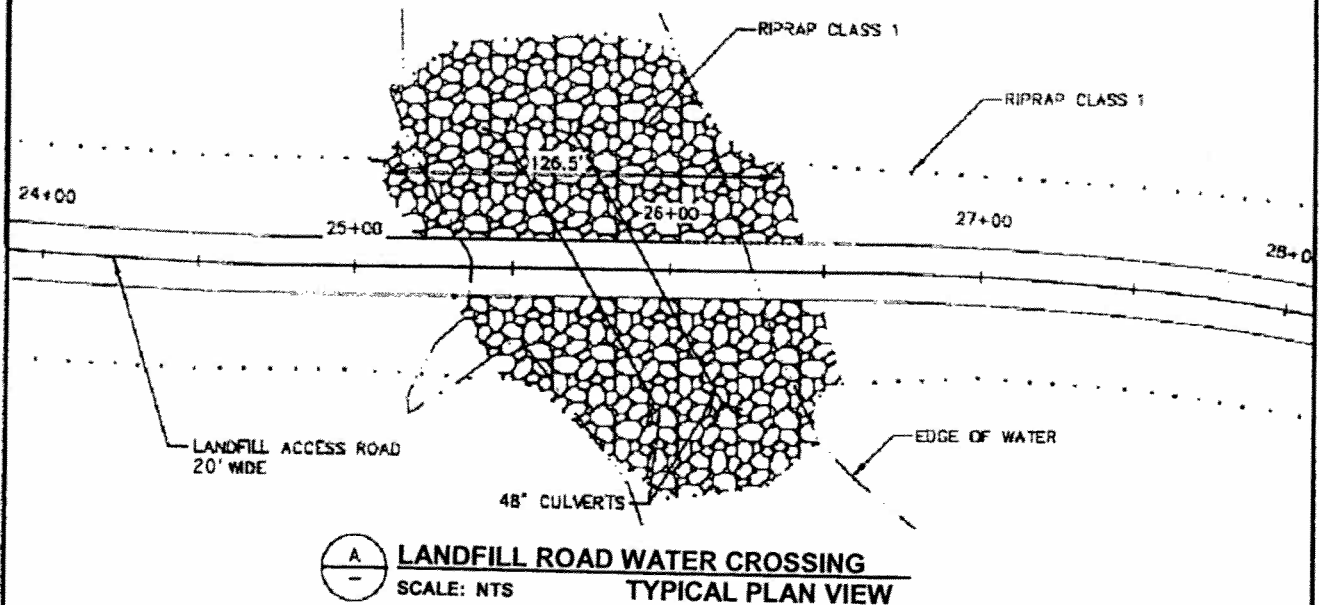


FIGURE 7
 EMMONAK ROAD PROJECT
 TYPICAL WATER CROSSING PROFILE

SECTIONS 12 & 13, TOWNSHIP 31 N. RANGE 82 W
 SECTIONS 17 & 18, TOWNSHIP 31 N. RANGE 81 W
 SEWARD MERIDIAN

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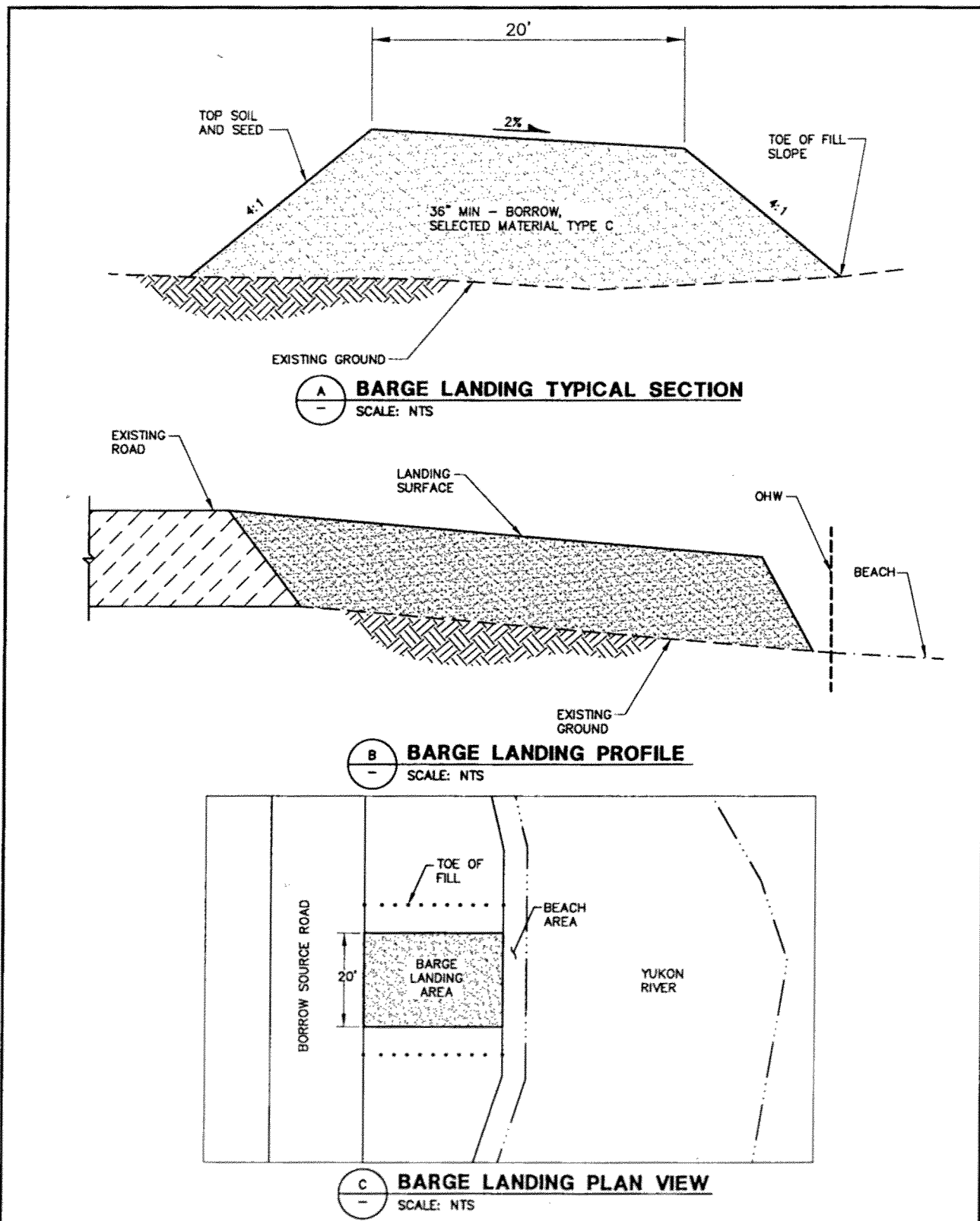


FIGURE 8
 EMMONAK ROAD PROJECT
 BARGE LANDING TYPICAL SECTION